

REMARKS

The Office Action dated March 17, 2009, has been received and carefully considered. In this response, the specification, and claims 26-28, 30, 42, 44, and 50 have been amended. No new matter has been added. Entry of the amendments to the specification and claims 26-28, 30, 42, 44, and 50 is respectfully requested. Reconsideration of the current rejections in the present application is also respectfully requested based on the following remarks.¹

I. INFORMATION DISCLOSURE STATEMENT

On page 2 of the Office Action, the Examiner did not consider items 83-88 and 90 of the Information Disclosure Statement (IDS) submitted on November 24, 2008. The Examiner cites MPEP 609.04(a) for the proposition that both date and month of non-patent literature must be submitted. Applicants respectfully submit that MPEP 609.04(a) also indicates that "the year of publication (without the month) will be accepted if the

¹ As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions made by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., assertions regarding dependent claims, whether a reference constitutes prior art, whether references are legally combinable for obviousness purposes) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

applicant points out in the information disclosure statement that the year of publication is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the particular month of publication is not an issue." Applicants respectfully submit that the filing date of the above-referenced application is March 12, 2004, claiming priority from U.S. Patent Application 10/668,833, with a filing date of September 23, 2003. Applicants point out, what was previously readily apparent in the IDS, that items 83, 84, 87, 88, and 90 have imprinted copyright years that are sufficiently before the earliest filing date of the above-referenced patent application. However, Applicants reserve the right to establish an earlier date of conception and/or reduction to practice. Applicants also note that items 85 and 86, listing dates of 2006 and 2005, respectively, were inadvertently submitted, as it appears that the dates of the items are after the filing date of the above-identified application. In view of the foregoing, Applicants respectfully request that items 83, 84, 87, 88, and 90 of the IDS submitted on November 24, 2008, be considered in light of this statement.

II. SPECIFICATION

On page 3 of the Office Action, the Examiner reminds Applicants that paragraph [0001] of the specification should be updated to reflect any change in the status of the parent U.S. Patent Application No. 10/668,833. Applicants respectfully note that paragraph [0001] relates to the "Field of the Invention," and does not address the status of U.S. Patent Application No. 10/668,833. However, Applicants have herein amended the specification to note the relationship with the '833 application.

III. OBJECTIONS TO CLAIMS 27, 28, 30, 31, AND 42

On pages 3-4 of the Office Action, the Examiner objects to claims 27, 28, 30, 31², and 42, as well as all claims depending from claims 27, 28, 30, 31, and 42, for containing various informalities. Applicants respectfully submit amendments to claims 27, 28, 30, and 42, to address the Examiner's concerns. In view of the foregoing amendments, Applicants respectfully request that the aforementioned objections to claims 27, 28, 30, 31, and 42 be withdrawn.

² The Examiner notes claim 31 is objected to, but does not provide a reason in the Office Action. Applicants do not find a similar antecedent basis reason to object to claim 31 as is advanced for claims 27, 28, 30, and 41. Applicants respectfully request that the objection of claim 31 be withdrawn, or respectfully requests that the Examiner indicate the objection in a telephone interview so that appropriate correction may be taken, if required.

IV. THE WRITTEN DESCRIPTION REJECTION OF CLAIMS 44, 46, 48-50, 52, 54, AND 55

On pages 4-5 of the Office Action, claims 44, 46, 48-50, 52, 54, and 55 were rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicants respectfully disagree. However, in order to advance the claims to allowance, Applicants respectfully submit amendments to claims 44 and 50. The rejection of claims 46, 48, 49, 52, 54, and 55 is not specifically advanced in the Office Action. However, to the extent that the dependent claims stand rejected as depending from a rejected independent claim, Applicants respectfully submit that claims 44 and 50 are in condition for allowance, and so dependent claims 46, 48, 49, 52, 54, and 55 are themselves allowable for at least that reason.

In view of the foregoing, Applicants respectfully request that the aforementioned written description rejection of claims 44, 46, 48-50, 52, 54, and 55 be withdrawn.

V. THE INDEFINITENESS REJECTION OF CLAIMS 26-44, 46, 48-50, 52, 54, AND 55

On page 5-8 of the Office Action, claims 26-44, 46, 48-50, 52, 54, and 55 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention. Applicants respectfully disagree. However, in order to advance the claims to allowance, Applicants respectfully submit amendments to claims 26, 44, and 50. Applicants respectfully submit that, as the independent claims have been amended to address the Examiner's suggestions, all of the claims that depend from the independent claims are themselves allowable for at least that reason.

In view of the foregoing, Applicant respectfully requests that the aforementioned indefiniteness rejection of claims 26-44, 46, 48-50, 52, 54, and 55 be withdrawn.

VI. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the

present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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